

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARK A. HERRERA-SCHMITZ,
Plaintiff,
v.
COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

Case No. [15-cv-00333-MEJ](#)

ORDER RE: STATEMENTS OF FACTS

As set forth in the Procedural Order for Social Security Review Actions (Dkt. No. 5), this matter will be deemed submitted for decision without oral argument based on the parties' motions for summary judgment and/or remand. In connection with their motions, the parties shall file either a joint statement or separate statements of facts setting forth all relevant medical evidence and written and oral testimony in the Administrative Record. Accordingly, the Court ORDERS the parties to meet and confer within 21 days of service of Defendant's answer for the purpose of determining whether they are able to file a joint statement of facts in the record, or whether it is necessary for the parties to file separate statements of facts.

A. Joint Statement of Facts

If the parties are able to agree on a joint statement of facts, the statement shall be signed by both parties and filed by the same deadline as Plaintiff's motion for summary judgment or for remand. Each fact must be set forth in a separately numbered paragraph and cite to a specific portion of the Administrative Record where the fact finds support.

B. Separate Statements of Facts

If the parties are unable to agree on a joint statement of facts, they shall comply with the following requirements for separate statements of facts.

1. Plaintiff's Separate Statement of Facts

At the time Plaintiff files the motion for summary judgment or for remand, Plaintiff must also file a statement, separate from the motion and memorandum of law, setting forth each fact

1 from the Administrative Record on which Plaintiff relies in support of the motion, including all
2 relevant medical evidence and written and oral testimony in the Administrative Record. Each fact
3 must be set forth in a separately numbered paragraph and cite to a specific portion of the
4 Administrative Record where the fact finds support. A failure to submit a separate statement of
5 facts in this form may constitute grounds for denial of the motion.

6 2. Defendant's Statement of Facts

7 At the time Defendant files the cross-motion for summary judgment or for remand,
8 Defendant must also file a statement, separate from the motion and memorandum of law, setting
9 forth: (a) for each paragraph of Plaintiff's separate statement of facts, a correspondingly numbered
10 paragraph indicating whether Defendant disputes the statement of fact as set forth by Plaintiff and,
11 if disputed, a reference to the specific portion of the Administrative Record supporting
12 Defendant's position; and (b) any additional facts from the Administrative Record on which
13 Defendant relies in support of the motion. Each additional fact must be set forth in a separately
14 numbered paragraph and cite to a specific portion of the Administrative Record where the fact
15 finds support.

16 3. Reply Statement of Facts

17 If Defendant sets forth additional facts in the cross-motion, Plaintiff shall file a statement,
18 separate from the reply brief, with correspondingly numbered paragraphs indicating whether
19 Plaintiff disputes the statement of fact as set forth by Defendant and, if disputed, a reference to the
20 specific portion of the Administrative Record supporting Plaintiff's position.

21 **IT IS SO ORDERED.**

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23 Dated: February 4, 2015

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26 MARIA-ELENA JAMES
27 United States Magistrate Judge
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